

EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,)
 Plaintiff,)
 vs.) No. CV 10-03561 WHA
GOOGLE, INC.,)
 Defendant.) VOLUME II
_____)

Videotaped Patent Issues deposition of
JOHN C. MITCHELL, PH.D., Volume 2, taken at
Morrison & Foerster LLP, 755 Page Mill Road,
Palo Alto, California, commencing at 8:18 a.m.,
on Wednesday, September 7, 2011, before
Leslie Rockwood, RPR, CSR No. 3462.

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1 contained in memory on a platform; correct?

2 A. Well, I was giving you examples of how I
3 understood the claim in relation to the system dexopt, in
4 particular, in order to evaluate whether the elements of
5 the claim are met. 10:07:36

6 Q. Okay. And I'm wondering is -- what I'm
7 wondering is: Did you use that method? Did you use that
8 example that you give as a way to determine whether or
9 not dexopt is at runtime in order to satisfy the claims?

10 A. I guess I've lost a little bit of the detail 10:07:53
11 by what you refer to in that example. I've tried to
12 explain the way in which dexopt is runtime. And I gave
13 you some examples of distinctions between runtime
14 operations or runtime optimizations and things that are
15 not runtime optimizations. 10:08:12

16 Q. You said in order to determine whether or not
17 something is in runtime, you would have to look at the
18 way it's kept in memory on the platform; correct?

19 MR. PETERS: Objection. Form.

20 THE WITNESS: Yeah, I'm not sure that's what 10:08:25
21 I said. We could read it back, and I could clarify it,
22 if there's some confusion about it.

23 Q. BY MR. KAMBER: All right. I feel like we're
24 going in circles here.

25 How did you determine that dexopt was at 10:08:40

1 runtime?

2 A. Through statements from Google describing the

3 way that this operates. There are slides, again, and

4 quotations and sections from documentation, I believe.

5 And also looked at the code and understood how this

10:08:59

6 behaves and the nature of the steps and the information

7 required in order to complete those steps.

8 Q. Let's look at some of that documentation.

9 Take a look at page 90.

10 You have a clip of a slide and then a quote

10:09:48

11 from Mr. Bornstein's presentation here on page 90;

12 correct?

13 A. This certainly is a slide and a quote. I

14 believe it's from one of Dan Bornstein's presentations.

15 It may be the one we identified earlier.

10:10:06

16 Q. And the quote, you say that -- you give at

17 2154 under, quote, "install time work."

18 Do you see that?

19 A. Yes.

20 Q. Okay. So what Mr. Bornstein is talking about

10:10:18

21 that you cite to relates to install time on a device;

22 correct?

23 A. That's the way he's characterized this

24 portion of the operation, yes.

25 Q. Okay. And turn to page 91.

10:10:34

1 That slide relates to install time work;
2 correct? It says it at the top; right?

3 MR. PETERS: Objection. Form.

4 Q. BY MR. KAMBER: Let me rephrase the question.

5 The slide on page 91 is titled "Install Time 10:10:53
6 Work"; correct?

7 A. That's what this slide says, yes.

8 Q. And the slide on page 92 that you cite also
9 is entitled "Install Time Work"; correct?

10 A. That's the title on the slide. 10:11:06

11 Q. Right.

12 And that's relating to the accused infringing
13 functionality that you've identified; correct?

14 A. That's correct.

15 Q. And so Google characterizes that as install 10:11:18
16 time work; correct?

17 A. That's the heading on the slide. Although,
18 there's an explanation of the nature of the steps. And I
19 give a further analysis of them.

20 Q. Why do you think that this work that's being 10:11:39
21 done at install time qualifies as runtime under the terms
22 of the patent?

23 A. I think what Dan Bornstein is trying to
24 emphasize is things that are done once. Although, there
25 are other documentation information that's explicit on 10:11:57

1 the runtime nature. I believe, for example, the
2 documentation that I reproduced on page 178 and 179, that
3 explains it in slightly more technical terms.

4 Q. Well, what you said on 178 and 179 relates to
5 the '205 patent; correct? 10:12:32

6 A. It's presented there. It's an explanation of
7 how -- it's an explanation of dexopt from the Android
8 website. It's the same dexopt in both patents. I don't
9 know if it's also -- that same section is also cited here
10 in connection with '104. That's just one place that I 10:13:00
11 knew I had put that information. So that's why I pointed
12 to it now.

13 Q. Let's take a look at the bottom of page 84
14 and the top of page 85.

15 A. Okay. That looks like the same -- same 10:13:27
16 material. For better or for worse, the fact is there's a
17 little bit longer excerpt on the 178, 179 pages than
18 here.

19 So there's a little more explicit information
20 about the meaning of this and content of this page that's 10:13:51
21 cited in the report -- in the analysis of the '104
22 patent.

23 Q. The -- turning to page 85, there's a bullet
24 about halfway down the page that says, "Bytecode
25 verification is necessary but slow, so we want to verify 10:14:18

1 STATE OF CALIFORNIA) ss:

2 COUNTY OF MARIN)

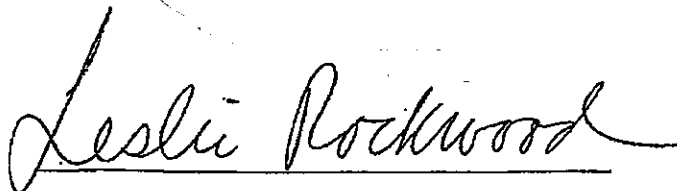
3
4 I, LESLIE ROCKWOOD, CSR No. 3462, do hereby
5 certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set forth
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all
10 objections made by counsel at the time of the examination
11 were recorded stenographically by me, and were thereafter
12 transcribed under my direction and supervision, and that
13 the foregoing pages contain a full, true and accurate
14 record of all proceedings and testimony to the best of my
15 skill and ability.

16 I further certify that I am neither counsel
17 for any party to said action, nor am I related to any
18 party to said action, nor am I in any way interested in
19 the outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this 8th day of September, 2011.

22
23 
24

25 LESLIE ROCKWOOD, CSR. NO. 3462